

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6234**

**BILL NUMBER:** HB 1082

**NOTE PREPARED:** Nov 20, 2002

**BILL AMENDED:**

**SUBJECT:** Withholding Judgment of Conviction.

**FIRST AUTHOR:** Rep. Weinzapfel

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ GENERAL  
☒ DEDICATED  
☐ FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that in certain circumstances, a court may withhold judgment of conviction.

**Effective Date:** July 1, 2003.

**Explanation of State Expenditures:** If courts withhold judgements for Class D felonies, there may be fewer offenders committed to Department of Correction facilities.

A Class D felony is punishable by a prison term ranging from six months to three years. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

See also *Explanation of Local Expenditures*.

**Explanation of State Revenues:** Revenue to the Common School Fund could be affected if the sentencing court decides to reduce a conviction to a Class A misdemeanor. The maximum fine for a Class A misdemeanor is \$5,000, while the maximum fine for a Class D felony is \$10,000. Court fees for both misdemeanors and felonies are \$120.

**Explanation of Local Expenditures:** Under this bill, a court could delay judgement of conviction for a Class D felony for up to three years. The court could set conditions for the defendant with which to comply if the defendant wishes to avoid being convicted of a Class D felony. Depending on the restrictions the court

wishes to impose, the defendant may remain under the supervision of the local probation department for up to three years. This compares to a maximum length of time of 12 months if the court enters a judgment of a Class A misdemeanor.

If defendants are assigned to probation after sentencing, the workload for probation departments may increase.

*Background Information:* Under current law, if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor if:

- the person has not committed a prior, unrelated felony that was not reduced to a Class A misdemeanor within the last three years; and
- the current offense is not a domestic battery as a Class D felony (IC 35-42-2-1.3), an auto theft (IC 35-43-4-2.5),; or receiving stolen auto parts (IC 35-43-4-2.5).

In addition, under current law, the court is required to enter judgement of conviction after a verdict, finding, or plea of guilty at the time of sentencing and may not withhold judgment until a further date.

**Explanation of Local Revenues:** Offenders sentenced to probation as a misdemeanant may pay an initial user fee of not more than \$50 and a maximum \$10 monthly probation user's fee.

See *Explanation of State Revenues*. The court fee for both misdemeanors and felonies is \$120.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs Association, Department of Correction.

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